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ABSTRACT

For the announced purpose of protecting the privacy of individuals identified in information systems maintained by Federal agencies, Public Law 93-579 regulates the collection, maintenance, use and dissemination of personal information by the agencies. The act enables an individual to determine what records are being kept; to have access to them, obtain a copy, and correct them; prevent their dissemination for improper purposes; and sue for damages when these rights are violated. Agencies are permitted to keep records for lawful purposes and to disseminate them as required by statute. Requirements for government contractors are spelled out, along with requirements for notice and publication. An annual report to the Congress is mandated. A Privacy Protection Study Commission is established to oversee the act. (SK)

ED105859

Public Law 93-579
93rd Congress, S. 3418
December 31, 1974

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
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An Act

To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Act of 1974".

Privacy Act of 1974. 5 USC 552a note.

Congressional findings. 5 USC 552a note.

SEC. 2. (a) The Congress finds that—

(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

Statement of purpose.

(b) The purpose of this Act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

(6) be subject to civil suit for any damages which occur as a result of willful or intentional action which violates any individual's rights under this Act.

88 STAT. 1896
88 STAT. 1897

SEC. 3. Title 5, United States Code, is amended by adding after section 552 the following new section:

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HR 8961

5 USC 552a.

"§ 552a. Records maintained on individuals

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'agency' means agency as defined in section 552(e) of this title;

5 USC 552.

"(2) the term 'individual' means a citizen of the United States or an alien lawfully admitted for permanent residence;

"(3) the term 'maintain' includes maintain, collect, use, or disseminate;

"(4) the term 'record' means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

"(5) the term 'system of records' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

"(6) the term 'statistical record' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; and

13 USC 8.

"(7) the term 'routine use' means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

"(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

"(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

"(2) required under section 552 of this title;

"(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

"(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

"(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

"(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

"(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which

maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

"(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

"(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

"(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

"(11) pursuant to the order of a court of competent jurisdiction.

"(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control, shall—

"(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

"(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

"(B) the name and address of the person or agency to whom the disclosure is made;

"(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

"(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

"(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

"(d) ACCESS TO RECORDS.—Each agency that maintains a system of records shall—

"(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence; Personal review.

"(2) permit the individual to request amendment of a record pertaining to him and— Amendment request.

"(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

"(B) promptly, either—

"(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

"(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason

for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

Review.

"(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

Notation of dispute.

"(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

"(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

"(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

"(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

"(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

"(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

"(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

"(B) the principal purpose or purposes for which the information is intended to be used;

"(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

"(D) the effects on him, if any, of not providing all or any part of the requested information;

Publication in Federal Register.

"(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

"(A) the name and location of the system;

"(B) the categories of individuals on whom records are maintained in the system;

"(C) the categories of records maintained in the system;

"(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

"(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

"(F) the title and business address of the agency official who is responsible for the system of records;

"(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

"(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

"(I) the categories of sources of records in the system;

"(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

"(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

"(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

"(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

"(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance; Rules of conduct.

"(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and Confidentiality of records.

"(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency. Publication in Federal Register.

"(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall— 5 USC 553.

"(1) establish procedures whereby an individual can be notified

in response to his request if any system of records named by the individual contains a record pertaining to him;

"(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

"(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

"(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

Fees. "(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

Publication in Federal Register. The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

"(g)(1) CIVIL REMEDIES.—Whenever any agency

"(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

"(B) refuses to comply with an individual request under subsection (d)(1) of this section;

"(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

"(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

Jurisdiction. the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

Amendment of record. "(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

Injunction. "(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of

any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

"(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of— Damages.

"(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

"(B) the costs of the action together with reasonable attorney fees as determined by the court.

"(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to the effective date of this section.

"(h) RIGHTS OF LEGAL GUARDIANS.—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

"(i)(1) CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

"(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

"(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553 (b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through 5 USC 553.

(F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

"(1) maintained by the Central Intelligence Agency; or

"(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

5 USC 553.

"(k) SPECIFIC EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of this section if the system of records is—

5 USC 552.

"(1) subject to the provisions of section 552(b)(1) of this title;

"(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however*, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

"(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

18 USC 3056.

"(4) required by statute to be maintained and used solely as statistical records;

"(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

"(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the

Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

"(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553 (c) of this title, the reasons why the system of records is to be exempted from a provision of this section. 5 USC 553.

"(l)(1) ARCHIVAL RECORDS.—Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section. 44 USC 3103.

"(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register. Publication in Federal Register.

"(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

"(m) GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

"(n) MAILING LISTS.—An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

"(o) REPORT ON NEW SYSTEMS.—Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such Notice to Congress and OMB.

proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

Report to Speaker of the House and President of the Senate.

"(p) ANNUAL REPORT.—The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.

5 USC 552.

(q) EFFECT OF OTHER LAWS.—No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.".

5 USC prec. 500.

SEC. 4. The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552. Public information; agency rules, opinions, orders, and proceedings.".

Privacy Protection Study Commission. Establishment. 5 USC 552a note.

SEC. 5. (a)(1) There is established a Privacy Protection Study Commission (hereinafter referred to as the "Commission") which shall be composed of seven members as follows:

Membership.

(A) three appointed by the President of the United States,

(B) two appointed by the President of the Senate, and

(C) two appointed by the Speaker of the House of Representatives.

Members of the Commission shall be chosen from among persons who, by reason of their knowledge and expertise in any of the following areas—civil rights and liberties, law, social sciences, computer technology, business, records management, and State and local government—are well qualified for service on the Commission.

(2) The members of the Commission shall elect a Chairman from among themselves.

Vacancies.

(3) Any vacancy in the membership of the Commission, as long as there are four members in office, shall not impair the power of the Commission but shall be filled in the same manner in which the original appointment was made.

(4) A quorum of the Commission shall consist of a majority of the members, except that the Commission may establish a lower number as a quorum for the purpose of taking testimony. The Commission is authorized to establish such committees and delegate such authority to them as may be necessary to carry out its functions. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information necessary to the performance of their functions, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or a member designated by the Chairman to be acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, other persons, and the public, and, on behalf of the Commission, shall see to the faithful execution of the administrative policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

(5) (A) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress. Budget requests.

(B) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. Legislative recommendations.

(b) The Commission shall—

(1) make a study of the data banks, automated data processing programs, and information systems of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information; and Study.

(2) recommend to the President and the Congress the extent, if any, to which the requirements and principles of section 552a of title 5, United States Code, should be applied to the information practices of those organizations by legislation, administrative action, or voluntary adoption of such requirements and principles, and report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information. Ante, p. 1897.

(c) (1) In the course of conducting the study required under subsection (b) (1) of this section, and in its reports thereon, the Commission may research, examine, and analyze—

(A) interstate transfer of information about individuals that is undertaken through manual files or by computer or other electronic or telecommunications means;

(B) data banks and information programs and systems the operation of which significantly or substantially affect the enjoyment of the privacy and other personal and property rights of individuals;

(C) the use of social security numbers, license plate numbers, universal identifiers, and other symbols to identify individuals in data banks and to gain access to, integrate, or centralize information systems and files; and

(D) the matching and analysis of statistical data, such as Federal census data, with other sources of personal data, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes, in a way which results in a violation of the implied or explicitly recognized confidentiality of such information.

(2) (A) The Commission may include in its examination personal information activities in the following areas: medical; insurance; education; employment and personnel; credit, banking and financial institutions; credit bureaus; the commercial reporting industry; cable television and other telecommunications media; travel, hotel and entertainment reservations; and electronic check processing.

(B) The Commission shall include in its examination a study of—

(i) whether a person engaged in interstate commerce who maintains a mailing list should be required to remove an individual's name and address from such list upon request of that individual;

(ii) whether the Internal Revenue Service should be prohibited from transfering individually indentifiable data to other agencies and to agencies of State governments;

(iii) whether the Federal Government should be liable for general damages incurred by an individual as the result of a willful or intentional violation of the provisions of sections 552a (g) (1) (C) or (D) of title 5, United States Code; and

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(iv) whether and how the standards for security and confidentiality of records required under section 552a (e) (10) of such title should be applied when a record is disclosed to a person other than an agency.

Religious organizations, exception.

(C) The Commission may study such other personal information activities necessary to carry out the congressional policy embodied in this Act, except that the Commission shall not investigate information systems maintained by religious organizations.

Guidelines for study.

(3) In conducting such study, the Commission shall—

(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with the rights of privacy, due process of law, and other guarantees in the Constitution;

(B) determine to what extent governmental and private information systems affect Federal-State relations or the principle of separation of powers;

(C) examine the standards and criteria governing programs, policies, and practices relating to the collection, soliciting, processing, use, access, integration, dissemination, and transmission of personal information; and

(D) to the maximum extent practicable, collect and utilize findings, reports, studies, hearing transcripts, and recommendations of governmental, legislative and private bodies, institutions, organizations, and individuals which pertain to the problems under study by the Commission.

(d) In addition to its other functions the Commission may—

(1) request assistance of the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out its functions under this Act;

(2) upon request, assist Federal agencies in complying with the requirements of section 552a of title 5, United States Code;

(3) determine what specific categories of information, the collection of which would violate an individual's right of privacy, should be prohibited by statute from collection by Federal agencies; and

(4) upon request, prepare model legislation for use by State and local governments in establishing procedures for handling, maintaining, and disseminating personal information at the State and local level and provide such technical assistance to State and local governments as they may require in the preparation and implementation of such legislation.

(e) (1) The Commission may, in carrying out its functions under this section, conduct such inspections, sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. A subpena shall be issued only upon an affirmative vote of a majority of all members of the Com-

mission. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2)(A) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Commission, upon request made by the Chairman, such information, data, reports and such other assistance as the Commission deems necessary to carry out its functions under this section. Whenever the head of any such department, agency, or instrumentality submits a report pursuant to section 552a (o) of title 5, United States Code, a copy of such report shall be transmitted to the Commission. Reports, transmittal to Commission. Ante, p. 1897.

(B) In carrying out its functions and exercising its powers under this section, the Commission may accept from any such department, agency, independent instrumentality, or other person any individually indentifiable data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall assure that the information is used only for the purpose for which it is provided, and upon completion of that purpose such information shall be destroyed or returned to such department, agency, independent instrumentality, or person from which it is obtained, as appropriate.

(3) The Commission shall have the power to——

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and 5 USC 5101, 5331. 5 USC 5332 note.

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

The Commission may delegate any of its functions to such personnel of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

(4) The Commission is authorized—

(A) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel; Rules and regulations.

(B) to enter into contracts or other arrangements or modifications thereof, with any government, any department, agency, or independent instrumentality of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(C) to make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(D) to take such other action as may be necessary to carry out its functions under this section.

Compensation.

(f)(1) Each [the] member of the Commission who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Commission.

Per diem.

5 USC 5332 note.

(2) A member of the Commission other than one to whom paragraph (1) applies shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when engaged in the actual performance of the duties vested in the Commission.

Travel expenses.

(3) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

Report to President and Congress.

(g) The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section. The Commission shall make a final report to the President and to the Congress on its findings pursuant to the study required to be made under subsection (b)(1) of this section not later than two years from the date on which all of the members of the Commission are appointed. The Commission shall cease to exist thirty days after the date on which its final report is submitted to the President and the Congress.

Penalties.

(h)(1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

5 USC 552a note.

SEC. 6. The Office of Management and Budget shall—

(1) develop guidelines and regulations for the use of agencies in implementing the provisions of section 552a of title 5, United States Code, as added by section 3 of this Act; and

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(2) provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies.

5 USC 552a note.

SEC. 7. (a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to—

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

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SEC. 8. The provisions of this Act shall be effective on and after the date of enactment, except that the amendments made by sections 3 and 4 shall become effective 270 days following the day on which this Act is enacted. Effective date. 5 USC 552a note.

SEC. 9. There is authorized to be appropriated to carry out the provisions of section 5 of this Act for fiscal years 1975, 1976, and 1977 the sum of $1,500,000, except that not more than $750,000 may be expended during any such fiscal year. Appropriation. 5 USC 552a note.

Approved December 31, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1416 accompanying H.R. 16373 (Comm. on Government Operations).
SENATE REPORT No. 93-1183 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 120 (1974):
Nov. 21, considered and passed Senate.
Dec. 11, considered and passed House, amended, in lieu of H.R. 16373.
Dec. 17, Senate concurred in House amendment with amendments.
Dec. 18, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 1:
Jan. 1, Presidential statement.